

1270 RIGHT OF WAY: WHEN VEHICLE USING ALLEY OR NONHIGHWAY ACCESS TO STOP

A safety statute provides that the operator of a vehicle emerging from an alley or about to cross or enter a highway from any point of access other than another highway shall stop the vehicle immediately prior to moving onto the sidewalk, or onto the sidewalk area extending across the path of the vehicle, and shall yield the right of way to any pedestrian, and upon crossing or entering the roadway shall yield the right of way to all vehicles approaching on the roadway.¹

“Right of way” means the privilege of the immediate use of the roadway.²

The words “emerging from” mean “leaving or coming out of.”

“Point of access,” means “a place where an entry can be made onto a highway.”

NOTES

1. Wis. Stat. § 346.47(1).

2. Wis. Stat. § 340.01(51).

COMMENT

This instruction and comment were approved in 1977. The instruction was revised in 2008. This revision was approved by the Committee in September 2021.

Driver or Operator. This instruction applies to either an operator or a driver of a motor vehicle. If “driver” is more appropriate to the evidence, then substitute “driver” for “operator.”

Wis. Stat. § 346.18(4) provides for yielding the right of way to vehicles approaching on the highway under these circumstances. Wis JI-Civil 1175 Right of Way: Entering Highway from an Alley or Non Highway Access Point covers this situation.

Rights and duties of bicyclists. Different right-of-way standards apply depending on whether a bicyclist was using the roadway as any other vehicle or as a pedestrian upon a sidewalk or within a crosswalk. See Chernetski v. American Family Mutual Insurance Co., 183 Wis.2d 68, 515 N.W.2d 283 (1994) and Estate of Zhu v. Hodgson, 2021 WI App 10, 395 Wis.2d 768, 954 N.W.2d 748.

